

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No.1)

RESOLVED, that the Franchise and Concession Review Committee authorizes the New York City Department of Parks and Recreation (“Parks”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement (“Agreement”) with the Prospect Park Alliance regarding Prospect Park in Brooklyn.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with the Prospect Park Alliance to the Franchise and Concession Review Committee for approval.

**THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON**

June
10th,
2015

Date: _____

Signed: _____

Title: Director of the Mayor's Office of Contract Services

CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM COVER SHEET
(Complete and attach a CPSR Memorandum only if the selection procedure will be other than Competitive Sealed Bids)

AGENCY: New York City Department of Parks & Recreation ("Parks")	CONCESSION TITLE/DESCRIPTION: Sole Source License Agreement with the Prospect Park Alliance regarding Prospect Park in Brooklyn.
# VOTES required for proposed action = 4 <input type="checkbox"/> N/A	CONCESSION IDENTIFICATION # B-073

SELECTION PROCEDURE
 (* City Chief Procurement Officer approval of CPSR required)

Competitive Sealed Bids (CSB)
 Competitive Sealed Proposals (CSP)*

Different Procedure * (Sole Source Agreement Other _____)

Negotiated Concession*

Recommended Concessionaire: Prospect Park Alliance EIN SSN # 11-2843763
 Attach Memo(s) *

CONCESSION AGREEMENT TERM

Initial Term: To be negotiated
Renewal Option(s) Term: To be negotiated

Total Potential Term: To be negotiated

ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS
 (Check all that apply)

Additional description attached

Annual Minimum Fee(s) \$ _____

% Gross Receipts _____%

The Greater of Annual Minimum Fee(s) of \$_____ v. _____% of Gross Receipts

Other formula To be negotiated

LOCATION OF CONCESSION SITE(S)* N/A
Prospect Park
 Address: Intersection of Prospect Park West, Flatbush
 Avenue, Parkside Avenue, Ocean Avenue
 Borough: Brooklyn Borders C.B.s: 6, 7, 8, 9, 14
 Block # 1117 Lot # 1

Parade Ground
 Address: Intersection of Caton Avenue, Coney Island
 Avenue, Parkside Avenue, Parade Place
 Borough: Brooklyn C.B.: 14
 Block # 5051 Lot # 1

*Attach additional sheet

CONCESSION TYPE (Check all that apply)

> Significant Concession:
 NO
 YES Basis:
 Total potential term =/>10 years Projected annual income/value to City >\$100,000 Major Concession

> Major Concession:
 NO
 YES - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.

NOTIFICATION REQUIREMENTS

Subject concession will be awarded by CSB or CSP. YES NO

If YES, check the applicable box(es) below:

The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.

The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan

pursuant to §1-10 of the Concession Rules.

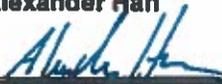
If NO, check the applicable box below:

- The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in advance of the FCRC meeting at which the agency will seek approval to use a different selection procedure.
- The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.
- The Agency certifies that each affected CB/BP will receive written notice that the concession was determined to be non-major along with a summary of the terms and conditions of the proposed concession upon publication of a Notice of Intent to Enter into Negotiations. The agency further certifies that it will send a copy of this notice to the members of the Committee within five days of the notice to each affected CB/BP.

AUTHORIZED AGENCY STAFF

This is to certify that the information presented herein is accurate.

Name Alexander Han Title Deputy Director of Concessions

Signature  Date 5/18/2015

CITY CHIEF PROCUREMENT OFFICER

This is to certify that the agency's plan presented herein will comply with the prescribed procedural requisites for the award of the subject concession.

Signature  Date 5/21/2015
City Chief Procurement Officer

CONCESSION PRE-SOLICITATION REVIEW MEMORANDUM

A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS N/A

Instructions: Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.

The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe)

The New York City Department of Parks and Recreation ("Parks") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules of the City of New York ("different procedure") for the reasons listed in Section (B)(2) below.

B. DETERMINATION TO USE OTHER THAN COMPETITIVE SEALED PROPOSALS N/A

1. *Briefly summarize the terms and conditions of the concession.*

To be determined at a later date – when/if the Franchise and Concession Review Committee ("FCRC") approves the use of a different procedure to negotiate a Sole Source License Agreement with the Prospect Park Alliance, Inc. ("PPA") regarding Prospect Park in Brooklyn.

2. *Briefly explain the basis for the determination not to solicit Competitive Sealed Proposals.*

PPA was formed in 1987 to restore Prospect Park after years of budget cuts resulted in a deterioration of its natural areas and a decline in usage. PAA was established to partner with Parks in order to preserve and maintain Prospect Park for the enjoyment of millions of visitors each year by caring for the natural environment, preserving the historic design and serving the public through various facilities and programs.

According to the current agreement for the management, maintenance and operation of Prospect Park between Parks and PPA, which was entered into in July 2010 for one (1) five-year term, with three (3) five-year renewal options, PPA is required to use all of its revenues, income, donations and other sources of funding to cover PPA's management, maintenance, operation and programming expenses, and the investment necessary to improve Prospect Park. PPA raises more than \$4 million annually and has helped secure more than \$150 million in public and private funds for Prospect Park's restoration. PPA currently holds licenses to operate several concessions in the Park, including the Carousel, the Tennis Center, the LeFrak Center at Lakeside, and snack bars at the Picnic House and Audubon Center at the Boathouse. PPA's management has improved service to the public and increased attendance at these concessions and in the Park as a whole (visitation has increased from 1.5 million annually in the early 1980's to more than 10 million today). PPA also manages a wide variety of recreational and educational programs for the public in the Park. After nearly 30 years in operation, PPA knows the public who visit the Park, understands how each element within the Park fits together and promotes the whole Park experience as well as offering specific activities and programs.

PPA funds many programs vital to Prospect Park's success including crews devoted to the park's natural resources, arboriculture, horticulture, turf and ballfields, and woodlands. PPA funds groundskeepers, a fix-it crew, a summer weekend clean-up crew, and administrative support positions. They fund educational programs at the Audubon Center at the Boathouse, Pop-Up Audubon and the Lefferts Historic House. They provide community outreach through the Park's

Community Committee and issue-specific taskforces. They provide public information through wayfinding and signage, park maps, a website, eNews and an events calendar. PPA also organizes the Prospect Park Volunteer Corps which engages community members, students and businesses in the care and maintenance of Prospect Park. This robust program involves more than 4,400 volunteers who contributed more than 22,300 hours of work in FY14 alone. PPA also established a volunteer leader program to help extend their capacity for handling large groups and individuals interested in volunteering on a regular basis. In 2014, PPA established a Junior Volunteer Corps to engage youth ages 6-13 in the work of the park and to help support and build the next generation of park stewards.

Parks believes that it is in the City's best interest to negotiate an Agreement with PPA to provide for park-wide food service including: operating and maintaining a snack bar at the Parade Ground, coordinating and overseeing catering services at the Picnic House and the Audubon Center at the Boathouse, permitting a seasonal food truck event at Grand Army Plaza, and providing for food trucks and/or carts at locations throughout the park throughout the year. Parks also believes it is in the City's best interest to negotiate an Agreement with PPA for them to perform site rentals at the Picnic House and the Audubon Center at the Boathouse, and to collect special event concession fees for events held throughout the Park.

PPA has historically provided substantial maintenance at the 40-acre Parade Ground, which offers ballfields and sports courts, the Stewart Playground, the Prospect Park Tennis Center, and three comfort stations. PPA's involvement in maintaining and improving the Parade Ground makes it uniquely qualified to manage a snack bar at this site, providing refreshments to the many park patrons who use the Parade Ground's facilities.

As PPA handles the scheduling of events at the Picnic House, which can range from concerts, to weddings, to Parks appropriate community programs, PPA is uniquely positioned to also oversee its catering services and site rentals. The Picnic House, jointly maintained by PPA and Parks, is a brick- and glass-enclosed pavilion with a terra cotta tile roof and occupies a site favored by park visitors for more than a century.

Prospect Park's Boathouse reopened in 2002 after years of much-needed restoration, and was named the Audubon Center at the Boathouse, with programming provided by PPA. PPA's management of the day-to-day operations allows for the seamless integration of both public and private uses of the facility and PPA's understanding of how the facility can best serve the community makes it uniquely qualified to coordinate and oversee catering services and site rentals.

For the past several years, PPA and the New York City Food Truck Association have hosted food truck "rallies" at the Grand Plaza Army entrance to Prospect Park, as well as at the Parade Ground and at other events in the park. These seasonal weekend events capitalize on the recent food truck popularity that has captivated the City while providing healthy and diverse food options at locations in the park that are convenient to visitors. PPA proposes to host future festivals while also expanding the presence of food trucks and/or other mobile vending options throughout the park as part of a comprehensive approach toward park-wide food service.

Prospect Park is also host to hundreds of special events throughout the year including walk-a-thons, running and bike races, concerts and other festivals, and more. Such events, operated or sponsored by third parties, generate special event concession fees for the use of this public space.

It is anticipated that the Agreement with PPA will allow PPA to collect special event concession fees, the proceeds of which will be used to offset a portion of PPA's costs contemplated under such agreement, including the management, maintenance, operation and programming of Prospect Park.

PPA plays a very significant role in funding the operating budget that keeps the park clean, safe and beautiful, and employs a significant staff that takes care of the park and engages its diverse surrounding communities. Today, Prospect Park is an international model for urban parks, and one of the premier green spaces in the United States. Given that PPA has a specific, proven commitment toward the management, maintenance, operation, and programming of Prospect Park, Parks believes that it is in the best interest of the City to negotiate a Sole Source License Agreement for park-wide food service, oversight and coordination of catering service and site rentals at the Picnic House and Boathouse and for the collection of special event concession fees, rather than proceed with a competitive solicitation process. It is anticipated that all revenues received from these activities will solely go toward the management, maintenance, operation and programming of Prospect Park.

3a. Briefly explain the selection procedure that will be utilized.

Parks is requesting FCRC authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement with PPA, which will go before the FCRC on June 10, 2015 ("Step 1"). Once negotiated and if determined by Parks to be a significant concession, Parks and the FCRC will hold a joint public hearing on the proposed Agreement before presenting it to the FCRC for "Step 2" approval at a second public meeting. If Parks determines the concession to be non-significant, Parks will present the fully negotiated Agreement with PPA to the FCRC and request the required FCRC authorization to enter into the Agreement directly (without the need for an initial joint public hearing).

3b. If the selection procedure is a negotiated concession, check the applicable box: N/A

- The Agency made a determination that it is not practicable and/or advantageous to award a concession by competitive sealed bidding or competitive sealed proposals due to the existence of a time-sensitive situation where a concession must be awarded quickly because:
- The agency has an opportunity to obtain significant revenues that would be lost or substantially diminished should the agency be required to solicit the concession by competitive sealed bids or competitive sealed proposals and the diminished revenue does not relate only to the present value of the revenue because of the additional time needed to solicit competitive sealed bids or competitive sealed proposals; *[Explain]*
- An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; *[Explain]*
- The agency has decided, for unanticipated reasons, not to renew an existing concession in the best interest of the City and requires a substitute/successor concessionaire. *[Explain]*
- DCAS is awarding a concession to an owner of property adjacent to the concession property, or to a business located on such adjacent property, and has determined that it is not in the best interest of the City to award the concession pursuant to a competitive process because of the layout or some other characteristic of the property, or because of a unique service that can be performed only by the proposed concessionaire. *[Explain]*

Approved by CCPO: _____ **on** ___/___/___.

4. If the agency has/will request unanimous FCRC approval to waive advance written notice to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. **N/A**



Robert Garafola
Deputy Commissioner
for Management, Budget,
and Public Programs

T 212.360.1302 · E robert.garafola@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

TO: Hon. Eric Adams., President of the Borough of Brooklyn
Craig Hammerman, District Manager, Brooklyn Community Board #6
Jeremy Laufer, District Manager, Brooklyn Community Board #7
Michelle George, District Manager, Brooklyn Community Board #8
Pearl Miles, District Manager, Brooklyn Community Board #9
Shawn Campbell, District Manager, Brooklyn Community Board #14

FROM: Philip Abramson, NYC Parks Director of Revenue Communications *PA*

SUBJECT: Notice of Intent to Seek Franchise and Concession Review Committee Approval to Utilize a Different Procedure to Negotiate a Sole Source License Agreement with the Prospect Park Alliance regarding Prospect Park in Brooklyn.

DATE: May 1, 2015

Pursuant to Section 1-16 of the Concession Rules of the City of New York, this is to notify the Brooklyn Borough President and Brooklyn Community Boards 6, 7, 8, 9 and 14, that the New York City Department of Parks and Recreation is seeking Franchise and Concession Review Committee (“FCRC”) approval to utilize a different procedure to negotiate a Sole Source License Agreement with the Prospect Park Alliance to provide for park-wide food service and to collect special event concession fees solely for the maintenance, operation and programming of Prospect Park in Brooklyn.

This concession has been determined not to be a major concession as defined in Chapter 7 of the Rules of the City Planning Commission.

If you have any questions or comments, please feel free to contact Philip Abramson, NYC Parks Director of Revenue Communications, by phone at (212) 360-3426 or via email at philip.abramson@parks.nyc.gov.

Thank you.